

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JEREMY PINSON,

Plaintiff,

v.

FEDERAL BUREAU OF PRISONS, et
al.,

Defendants.

No. 2:23-cv-0006-DJC-EFB-PC

ORDER DIRECTING TRANSFER OF VENUE

Plaintiff, a federal prisoner proceeding *pro se*, has filed the instant civil rights action. The matter was referred to a United States Magistrate Judge under 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On June 1, 2023, the Magistrate Judge filed Findings and Recommendations (ECF No. 11) herein that were served on Plaintiff and that contained notice to Plaintiff that any objections to the Findings and Recommendations were to be filed within 14 days. Plaintiff filed his Objections to the Magistrate Judge's Order and Findings and Recommendations on June 12, 2023. (See ECF No. 12.)

Consistent with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 304, this Court has conducted a *de novo* review of this case. Having carefully reviewed the entire file, the Court DECLINES TO ADOPT the Findings and Recommendations.

1 The Magistrate Judge correctly identified federal comity and the first-to-file rule
2 at issue here but recommended dismissal. (See ECF No. 11 at 3-4 and n.4 (citing
3 *Barapind v. Reno*, 72 F. Supp 2d 1132, 1144 (E.D. Cal. 1999)).) Plaintiff, however,
4 asked that two out of the three causes of action raising a First Amendment retaliation
5 claim and a Federal Torts Claim Act claim be transferred to the first-filed action in the
6 District of Arizona to the extent the Eighth Amendment claim brought in this case is
7 found duplicative of the Eighth Amendment claim brought in the District of Arizona.
8 (See ECF No. 12 at 2-3 (citing ECF Nos. 8-10).) Given the potential venue issues here,
9 the Court finds it more appropriate to transfer the case to the District of Arizona,
10 where the District Judge is more familiar with the facts of the case and can more ably
11 determine whether or not the case should proceed past the screening stage. See,
12 e.g., *Kohn Law Group, Inc. v. Auto Parts Mfg. Miss., Inc.*, 787 F.3d 1237 (9th Cir. 2015)
13 ("When applying the first-to-file rule, courts should be driven to maximize 'economy,
14 consistency, and comity.'" (citation omitted)).

15 Therefore, the Court DECLINES TO ADOPT the Magistrate Judge's Findings
16 and Recommendations (ECF No. 11). IT IS HEREBY ORDERED that this matter be
17 transferred to Judge Rosemary Marquez of the District of Arizona. See Case No. 22-
18 cv-00298-RM.

19
20 IT IS SO ORDERED.

21 Dated: September 25, 2023


Hon. Daniel J. Calabretta
UNITED STATES DISTRICT JUDGE